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## **REMARKS AND ARGUMENTS**

### **I. Status of the Application**

Claims 47 and 48 are pending in the instant application. Previously, these claims had been allowed. But the Examiner has reopened prosecution based on a newly applied reference and rejection. As discussed below, applicants believe that both of these grounds of rejection have been obviated by the amendments set forth below.

### **II. Section 112 Rejection**

The Examiner has rejected claim 47 under 35 U.S.C. § 112, second paragraph, on the grounds that it fails to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the Examiner states that claim is vague and indefinite because the positive charge on one of the nitrogen atom of the compound as drawn is

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missing the counter-ion. The Examiner notes that the other nitrogen has only 2 bonds and is missing either a substituent and a negative charge.

Applicants agree that this structure is not drawn correctly and thank the Examiner for pointing this out. The group that is intended to be represented by the chemical figure is "imidazole." This is explicitly stated in for example Figure 23a. It is well known to those of skill in the art that the nitrogen groups of imidazole are simple trivalent nitrogen atoms. Exotic chemical groups such as divalent negatively charged nitrogen is not found in imidazole as that is understood by those of skill in the art. Unfortunately, there appears to have been a simple draftsman error in rendering the chemical figures in the claims. Indeed, it can be seen from the original application that some of the chemical structures were submitted hand drawn. Applicants have amended claim 47 to correctly represent the imidazole group. Imidazole is distinctly mentioned as a possible base susbstitute on Figure 23a. No new matter has been introduced.

### III. Art Rejection

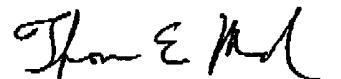
Claim 48 is rejected under 35 U.S.C. § 102(b) as anticipated by Moravek et al. (CS133464). Applicants disagree with the Examiner's interpretation of claim 48 as covering any species disclosed in Moravek et al. To constitute an anticipation, a reference must explicitly meet each and every element of the claim. Claim 48 requires that a "coupled" labeled moiety on the 2 position of the triazine. In contrast, the <sup>14</sup>C of the Moravek et al. reference is directly incorporated in the ring structure; it is not coupled to the ring system. Nevertheless, to clarify the scope of the claims of the instant invention and remove any possibility of overlap with Moravek et al, applicants have amended claim 48 to require that R<sub>4</sub> is a coupled moiety selected from the group consisting of a dye and a hapten. Support for this amendment can be found on, for example, page 136. Applicants have also added two dependent claims to claim 48, one claiming fluorescein and the other biotin.

### IV. Conclusion

Consideration and allowance of all pending claims is respectfully requested. If a telephone conversation with Applicants' attorney would expedite prosecution of the above-identified application, the Examiner is urged to call the undersigned at (408) 731-5875.

It is believed that no fee is due for this paper, but if applicants are incorrect, the Examiner is hereby authorized to deduct any necessary fees in this regard from applicants' deposit account no. 01-0431.

Respectfully submitted,



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